

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**Priscilla Sterling, Raine Becker, Shawn
Miller, and John Bennett, individually and on
behalf of all others similarly situated
Plaintiffs**

v.

Civil No. 3:22-cv-531-KHJ-MTP

**The City of Jackson, Mississippi; Chokwe A.
Lumumba; Tony Yarber; Kishia Powell;
Robert Miller; Jerriot Smash; Siemens
Corporation; Siemens Industry, Inc.; and
Trilogy Engineering Services LLC**

Defendants

**JERRIOT SMASH’S MOTION FOR JUDGMENT
ON THE PLEADINGS AND/OR QUALIFIED IMMUNITY**

Jerriot Smash, through counsel and pursuant to Federal Rule of Civil Procedure 12(c), files this Motion for Judgment on the Pleadings and/or Qualified Immunity, seeking dismissal of Counts I and II of Plaintiffs’ Class Action Complaint for Injunctive Relief and Money Damages with Jury Trial Demand [Doc. 1] against him. In support of the requested relief, Smash states:

1. In the Complaint, Plaintiffs assert two claims for relief against Smash: (1) Count I: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – Bodily Integrity; and (2) Count II: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – State Created Danger. *See id.* at 81-86.

2. Each claim fails to state a claim upon which relief may be granted against Smash.

3. Plaintiffs fail to allege Smash participated in any conduct giving rise to Counts I and II. Regardless, Smash is entitled to the protection afforded by qualified immunity.

4. Furthermore, Plaintiffs have not alleged a state-actor coercion, and therefore, no violation of bodily-integrity.

5. The Fifth Circuit does not recognize a state-created-danger theory of liability.

6. Accordingly, and for the reasons more fully set forth in his accompanying

Memorandum in Support, Smash requests dismissal of Counts I and II against him.

RESPECTFULLY SUBMITTED, this the 19th day of May, 2023.

/s/ Terris C. Harris

TERRIS C. HARRIS, J.D., LL.M.

Terris C. Harris, J.D., LL.M. (MSB #99433)
THE COCHRAN FIRM-JACKSON, LLC
197 Charmant Place, Suite 2
Ridgeland, MS 39157
Telephone: (601) 790-7600
tharris@cochranfirm.com
Counsel for Jerriot Smash

CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2023, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which served a copy of the foregoing on all counsel of record.

/s/ Terris C. Harris

TERRIS C. HARRIS, J.D., LL.M.